for profit and having a capital stock represented by shares . . . now or hereafter organized under the laws of the United States or of any state or territory of the United States" shall be subject to the tax. *Held*, that the Express Company was properly taxed. *Roberts* v. *Anderson*, 226 Fed. 7 (C. C. A., 2nd Circ.).

It seems clear that a joint stock company may be taxed under the statute if otherwise within its terms. See *Flint* v. *Stone Tracy Co.* (*The Corporation Tax Cases*), 220 U. S. 107, 145, 162; *Eliot* v. *Freeman*, 220 U. S. 178, 185. The question then remains whether the United States Express Company is organized under the laws of New York within the meaning of the act. Now it is clear that a joint stock company possessing only common-law powers is not organized under the laws of a state. *Eliot* v. *Freeman*, *supra*. But a New York joint stock company possesses in substance all corporate attributes save that of limited liability. See *Hibbs* v. *Brown*, 190 N. Y. 167, 177, 82 N. E. 1108, 1111; *People* v. *Wemple*, 117 N. Y. 136, 144, 22 N. E. 1046, 1047. And at least the power to sue and be sued in the name of one of the members is statutory and distinctively corporate. *Cf. Hybart* v. *Parker*, 4 C. B. N. S. 209, with *Van Aernam* v. *Bleistein*, 102 N. Y. 355, 7 N. E. 537. See 2 COOK, CORPORATIONS, 7 ed., §§ 503, 508. Since the company thus does business in a corporate capacity by reason of powers which it takes from New York laws, it would seem to follow that it is organized under those laws within the meaning of the act, and so is subject to the tax. *People* v. *Wemple*, *supra*. *Cf. Oliver* v. *Liverpool Ins. Co.*, 100 Mass. 531; *Liverpool Ins. Co.* v. *Massachusetts*, 10 Wall. (U. S.) 566.

TAXATION — PARTICULAR FORMS OF TAXATION — INHERITANCE TAX: TAXATION OF FOREIGN REAL ESTATE EQUITABLY CONVERTED. — A testator domiciled in Illinois left realty in Illinois and in Ohio. He directed that all his property be sold and the proceeds distributed among legatees, some of whom were residents of Ohio. He appointed a resident of Ohio one of his executors, who took out ancillary administration there, and distributed the proceeds of the sale of the Ohio land among the legatees resident in Ohio. Illinois seeks to collect from the Illinois executor a tax on the succession to this property. *Held*, that it may not do so. *People* v. *Kellogg*, 109 N. E. 304 (Ill.).

A state cannot impose a tax upon the succession to real estate outside its territory. *In re Swift*, 137 N. Y. 77, 32 N. E. 1096; *Bittinger's Appeal*, 129 Pa. St. 338, 18 Atl. 132. But it is universally held that succession to personalty, no matter where it is located, may be taxed at the domicile of the descendent, because the state of actual *situs* of the property permits the law of the domicile to govern its descent and distribution. *In re Swift*, *supra*; *Frothingham* v. *Shaw*, 175 Mass. 59, 55 N. E. 623. See DOS PASSOS, INHERITANCE TAX LAW, 2 ed., § 46. This same situation exists in the case of equitable conversion, for though the state of the *situs* governs the descent of the legal title by its own law, it permits the law of the domicile to determine the succession to the proceeds. *In re Piercy*, [1895] 1 Ch. 83; *Jenkins* v. *Guarantee Trust, etc. Co.*, 53 N. J. Eq. 194, 32 Atl. 208. It would seem, then, that the state of the domicile has power to tax succession to the proceeds in such a case, as in any case of succession to personal property, but outside of Pennsylvania no attempt to levy such a tax has been made. *Connell* v. *Crosby*, 210 Ill. 380, 71 N. E. 350; *In re Swift*, *supra*, 88. See *McCurdy* v. *McCurdy*, 197 Mass. 248, 250, 83 N. E. 881, 882. In the Pennsylvania cases, the property was actually brought into the state of the domicile for the purpose of distribution and this limit to the broad doctrine as there expounded has been suggested. *Miller* v. *Commonwealth*, 111 Pa. St. 321, 2 Atl. 492; *Williamson's Estate*, 153 Pa. St. 508, 26 Atl. 246; *Dalrymple's Estate*, 215 Pa. St. 367, 64 Atl. 554. See *Hale's Estate*, 161 Pa. St. 181, 183, 28 Atl. 1071, 1072. The

principal case is not within the doctrine as thus limited, and the result is no doubt equitable, for at no time did the Illinois executor have power to collect the tax out of the proceeds that were distributed in Ohio. Yet this consideration has had no weight where the question was simply that of succession to personal property. *In re Hodges*, 150 Pac. 344 (Cal.).

TORTS — NATURE OF TORT LIABILITY IN GENERAL — EFFECT OF BAD MOTIVE IN PERSUADING TENANTS NOT TO DEAL WITH THE PLAINTIFF. — The defendant, without any coercion, induced his tenants, who had short term leases, to cease using electric power furnished by the plaintiff. The defendant did this because he was an enemy of one of the plaintiff's officers. The plaintiff sues to enjoin this action of the defendant. *Held*, that the injunction will be denied. *People's Land & Mfg. Co.* v. *Beyer*, 154 N. W. 382 (Wis.).

By the sounder view, damage caused intentionally is *primâ facie* actionable. See 29 HARV. L. REV. 86. There is authority that this rule does not apply to the use of one's own property. *Mahan* v. *Brown*, 13 Wend. (N. Y.) 261; *Letts* v. *Kessler*, 54 Oh. St. 73, 42 N. E. 765. But the better view is that a defendant should be held liable, even in such cases. *Flaherty* v. *Moran*, 81 Mich. 52, 45 N. W. 381. See *Horan* v. *Byrnes*, 72 N. H. 93, 54 Atl. 945. Again, by the trend of present authority, a defendant, who, with the sole motive of injuring the plaintiff, has indirectly injured him by influencing the conduct of third persons, is held liable even though no breach of contract was involved. *Lumley* v. *Gye*, 2 El. & Bl. 216; *Walker* v. *Cronin*, 107 Mass. 555; *Tuttle* v. *Buck*, 107 Minn. 145, 119 N. W. 946; *Lewis* v. *Bloede*, 202 Fed. 7. *Contra*, *Passaic Print Works* v. *Ely, etc. Co.*, 105 Fed. 163. No reason is perceived why the same result should not follow when the defendant makes use of his position as a landlord to injure the plaintiff indirectly, without justification. See *Chesley* v. *King*, 74 Me. 164. Nor can it be argued that the defendant in the principal case had the undisputed right of an owner to employ on his land the people most acceptable to him, for however short the leases, it is clear that he had conveyed away the present rights of ownership at least to such an extent that the plaintiffs were not his but his tenants' employees. Hence if he acted solely from a desire to injure the plaintiff, the injunction should have been granted. However, if he acted to any extent with the motive of protecting his reversionary interest, the plaintiff was rightly refused relief.

TRIAL — VERDICT — JOINT TORTFEASORS: SEVERANCE OF DAMAGES. — A passenger was hurt in a collision between a street car and a train. He sued both companies. The jury found a verdict against both defendants, assessed damages at $10,000, and ordered that one defendant pay $6,000 and the other $4,000. The trial court entered judgment for $10,000 against both. *Held*, that the judgment must be reversed and a new trial had. *Rathbone* v. *Detroit United Ry.*, 154 N. W. 143 (Mich.).

The defendants here are joint tortfeasors. *Mathews* v. *Delaware L. & W. R. Co.*, 56 N. J. L. 34, 27 Atl. 919. This being so, they are both liable for all the damage suffered by the plaintiff; the jury must simply find that damage, and, in the absence of statute, cannot apportion it among them. *Hill* v. *Goodchild*, 5 Burr. 2790. *Contra*, *White* v. *M'Neily*, 1 Bay (S. C.) 11. The trial court should enforce this rule, when necessary, by sending back the jury to bring in a proper verdict; there is then no further difficulty. *Fuller* v. *Chamberlain*, 11 Met. (Mass.) 503; *Washington Market Co.* v. *Clagett*, 19 App. D. C. 12; *Olson* v. *Nebraska Telephone Co.*, 87 Neb. 593, 127 N. W. 916. When this is not done it leaves the verdict irregular. But ordinarily a verdict that decides the issue is not vitiated by the addition of something beyond the jury's power to add. The unauthorized addition, if fairly severable from the other findings, may be stricken out as surplusage and judgment entered on the rest. *Statler*